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10/712,719	11/13/2003	Farshid H. Asvadi		9283

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EXAMINER

SILBERMANN, JOANNE

ART UNIT PAPER NUMBER

3611

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/712,719	Applicant(s) ASVADI, FARSHID H.	
	Examiner Joanne Silbermann	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sheet of electroluminescent material, the laminated layers, the inversion circuit, the power supply, the battery, the distinctive pattern, and the pouch (claims 1-20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

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2. The disclosure is objected to because of the following informalities: The Specification fails to include a "Summary of the Invention" section (see MPEP 608.01(d) and 37 CFR 1.73). The Applicant has failed to include in the Specification the element labels that are now present in the drawings.

Appropriate correction is required.

Claim Objections

3. Claims 1-20 are objected to because of the following informalities: in claim 1 lines 5 and 7, claim 2 lines 5, 7 and 11-12, and claim 3 lines 5 and 7 "the sheet" should be "the sheet of electroluminescent material" to be consistent. In claims 13-15 lines 1-2 "the electroluminescent" should be "the sheet of electroluminescent material" to be consistent. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 5, 8, 11, 14 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2 lines 11-12 are indefinite since it is not clear what the Applicant means by the phrase "laminate material are susceptible of being rolled up into the shape of a scroll".

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1,3,4,6,13,15,16,18,19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Neufeld, US #4,195,431.

8. Neufeld shows (Figures 1-5) sheet of electroluminescent material 23, laminate material 22, 24, inversion circuit 37, 44, 64, and power supply/battery 31. In regard to claim 3, as broadly defined, Neufeld shows all of the limitations defined in the claim. The device can be immersed and the material used to make the device (plastic) is considered to be waterproof. In regard to claims 13 and 15, the electroluminescent material of Neufeld is considered to be “capable of being formed or cut to assume a distinctive pattern.” In regard to claims 16 and 18, a pocket is formed between the layers of laminate material, 22 and 24. In regard to claims 19 and 20 Neufeld discloses (column 2 lines 63-68) the idea of making the laminate from a transparent or translucent material.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7,9,10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neufeld.

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11. Neufeld teaches Applicant's basic inventive concept except for making the battery compartment in the form of a right cylinder. Neufeld shows (Figures 1 and 3) the battery compartment in shape of a half cylinder. It would have been an obvious matter of design choice to one having ordinary skill in the art to modify Neufeld by making the battery compartment in the shape of a right cylinder since the Applicant fails to define any advantage of making the compartment in the shape of a right cylinder and the shape taught by Neufeld would work equally well. Further, the court has ruled that a mere difference in shape is considered to be a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the device is significant. In re Daily, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

12. In regard to claims 10 and 12, Neufeld discloses the use of an inversion circuit (37, 44, 64) which appears to be within the compartment and further it is considered within the skill of a practitioner in the art to place the circuit in any location desired.

13. Claims 2,5,8,11,14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neufeld in view of Field et al. US #5,337,224.

14. Neufeld discloses Applicant's basic inventive concept except for making the sheet of electroluminescent material and laminate flexible/susceptible to be rolled up. Field et al. show (Figure 6) the idea of making the sheet of electroluminescent material flexible and capable of being roller up. In view of the teachings of Field et al. it would have been obvious to one of ordinary skill in the art to modify Neufeld by making the

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sheet of electroluminescent material and laminate flexible/susceptible to be rolled up since this would allow the device to be supported on curved surfaces as well as to make the device more durable, i.e. the device could be bent without breaking.

15. In regard to claims 8 and 11, Neufeld teaches Applicant's basic inventive concept except for making the battery compartment in the form of a right cylinder. Neufeld shows (Figures 1 and 3) the battery compartment in the shape of a half cylinder. It would have been an obvious matter of design choice to one of ordinary skill in the art to modify Neufeld by making the battery compartment in the shape of a right cylinder since Applicant fails to define any advantage of making the compartment in the shape of a right cylinder and the shape taught by Neufeld would work equally well. Further, the court has ruled that a mere difference in shape is considered to be a matter of choice which a person having ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the device is significant. In re Daily, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

16. Regarding claim 11, Neufeld teaches using an inversion circuit (37, 44, 64) which appears to be within the compartment and further it is considered within the skill of a practitioner in the art to place the circuit in any location as desired.

17. Regarding claim 14, the electroluminescent material of Neufeld is considered to be "capable of being formed or cut to assume a distinctive pattern."

18. Regarding claim 17, the pocket is formed between the layers of laminate material 22 and 24.

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19. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Field et al. US #5,337,224 in view of Calamia et al. US #4,999,936.

20. Field et al. show (Figures 1-6) sheet of electroluminescent material 72-74, laminate material 70, 76, and power supply/battery 80. Field et al. do not teach whether the device includes an inversion circuit. Calamia et al. show (Figure 2) a display device that includes inversion circuit 46. In view of the teachings of Calamia et al. it would have been obvious to one of ordinary skill in the art to modify Field et al. by providing an inversion circuit since this would allow the energy from the battery to be converted into a usable form to operate the electroluminescent sheet in a proper manner.

21. Regarding claim 2, Field et al. show (Figure 2) the idea of making the electroluminescent material flexible.

22. Regarding claim 3, as broadly defined, Field et al. in view of Calamia et al. show all the limitations defined in the claim. The device can be immersed and the material used to make the device (plastic) is considered to be waterproof.

23. Regarding claims 7-12, Field et al. teach Applicant's basic inventive concept except for making the battery compartment in the form of a right cylinder. Field et al. shows (Figure 2A) that the battery compartment has a partial cylinder shape. It would have been an obvious matter of design choice to one having ordinary skill in the art to modify Field et al. by making the battery compartment in the shape of a right cylinder since the Applicant fails to define any advantage of making the compartment in the shape of a right cylinder and the shape taught by Field et al. would work equally well. Further, the court has ruled that a mere difference in shape is considered to be a matter

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of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the device is significant. In re Daily, 257 F.2d 669, 149 USPQ 47 (CCPA 1966).

24. Regarding claims 10-12 it is considered within the skill of a practitioner in the art to place the circuit in any location as desired, the most logical place being within the compartment.

25. Regarding claims 13-15 the electroluminescent material of Field et al. is considered to be "capable of being formed or cut to assume a distinctive pattern."

Response to Arguments

26. Applicant's arguments filed 17 April 2006 have been fully considered but they are not persuasive.

27. Regarding the Drawings, Applicant is referred to 37 CFR 1.84 (p) and (q) describing the use of numerals and lead lines in the Drawings and Specification.

28. Regarding the objections to the claims, the examiner has suggested what corrections need to be made. No examiner's amendments shall be made at this time.

29. Regarding the rejections under 35 USC 112, the rejected claims recite the material as being "susceptible of being rolled up into the shape of a scroll" which is confusing. If Applicant intends this to mean that the material "can be rolled up into the shape of a scroll" the claim should be amended to read as such.

30. Regarding the rejections under 35 USC 102, the Applicant is advised that Neufeld show layers 22 and 24 having the sheet of electroluminescent material therebetween. This bonding of several thin layers is considered to be a laminate.

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31. Regarding the rejections under 35 USC 103, the examiner recognizes that the references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combinations of references. However, there is no requirement that a motivation to make the modifications be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). Such motivations have been provided in the above rejections.

Conclusion

32. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 571-272-6653. The examiner can normally be reached on M-F 5:30 - 2:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Joanne Silbermann
Primary Examiner
Art Unit 3611

js
23 June 2006